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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,509	07/24/2003	Mohsen D. Shabana	GP-302542	1969

7590

12/19/2005

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EXAMINER

DUNN, DAVID R

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/626,509	Applicant(s) SHABANA ET AL.	
	Examiner David Dunn	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,13,14 and 19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18 is/are allowed.
- 6) ☒ Claim(s) 1-4,7-12,20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to the amendment filed September 30, 2005.

Claims 5, 6, 13, 14, and 19 remain withdrawn as drawn to non-elected inventions. The election was affirmed by Applicant in the Amendment of 9/30/05.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 10 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not describe how the pedals are variably positionable when “positionable to said seat” or “to said console” such that one skilled in the art would be enabled to make the invention. See for example, Figure 16; the pedals appear to be fixed to the seat and console.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 7-11 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Porter (6,962,094).

Porter et al. discloses a by-wire (see column 4, lines 10-12) foot pedal arrangement including a guide (2) mountable in the floorboard (see column 4, lines 15-20) to establish a plurality of driving positions (see column 4, lines 20-26); at least on foot pedal (4, 5) variable positionable in the floorboard; said foot pedal actuable to selectively operate of the energy conversion system or braking system (see column 4, lines 19-20); a wire extending between the foot pedal and energy conversion system to electrically communicate the actuation of the foot pedal to the conversion system (inherent, see column 4, lines 9-12).

The guide is a track (see Figure 4) in the floorboard, and the pedal is positionable along the track. The guide includes a plurality of interface connector points (see 42, 43, etc.). The pedals are positionable (with respect to) the seat and/or console.

5. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Lee (4,702,713).

Lee discloses a by-wire (23) foot pedal system wherein at least one foot pedal (24) is adjustable mounted (see Figure 7) in a vehicle floorboard (12), the foot pedal being movable along a track (66, 68; see Figure 8) in the floorboard.

6. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Salmon (4,683,977; previously cited on IDS).

Salmon discloses a by-wire (54) foot pedal system wherein the pedal is removable mounted in a vehicle floorboard for reconfiguration of the driving location (by frame 18), wherein the vehicle includes a plurality of driver interface points (27) at which the foot pedal is connectable (see column 2, lines 15-23).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smythe (6,431,304) in view of Levine (6,820,895).

Smythe discloses an adjustable pedal assembly comprising: a track arrangement (see Figure 3) extending longitudinally and transversely with respect to the vehicle, and one or more foot pedals (27, 28) movably mounted in the track arrangement for positioning said pedals with respect to the vehicle longitudinally and transversely along the track in accordance with the driving position selected. The pedals include a base (for example, 35) movable forward and backwardly in the longitudinal track portion and a post (32) connected to the base movable upwardly and downwardly with respect to the base, and a beam (95) pivotally (about 62) supported with respect to the post. The beam is split longitudinally (between portion 95 and portion connected about 62). The pedals are actuatable by-wire (by 63; see also column 21, lines

9-12). The pedal is positionable along any number of points of the guide; the pedals are positionable (positioned with respect to) the seat and/or console.

Smythe fails to show an adjustable seat having selectable multiple driving positions.

Levine teaches a vehicle having an adjustable driver's seat (2; see Figure 1A) which has multiple driving positions and adjustable pedals (4) which can be positioned in accordance with the driving position selected (see column 4, lines 15-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Smythe with the teachings of Levine to include an adjustable driver's seat in order to provide greater comfort for the driver.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porter et al. in view of Smythe.

Porter et al. is discussed above and fails to show the pedal being movable laterally.

Smythe teaches longitudinally movable pedals as discussed above.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Porter et al. with the teachings of Smythe to provide a guide that could be moved laterally to provide additionally flexibility to the driver.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porter et al. in view of Kimsey (GB 2,243,294).

Porter et al. is discussed above but does not show the pedals being removable mounted in a plurality of driver interface points.

Kimsey teaches a car floorboard with a mat (1) removable mounted in a plurality of driver interface points (10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Porter et al. with the teachings of Kimsey to provide multiple interface points to mount the guide (2) to the floorboard to provide increased flexibility to the driver.

Allowable Subject Matter

11. Claims 15-18 are allowed.

Response to Arguments

12. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

This Office Action is non-final based on, at least, the new rejection of claim 1.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bortolon shows an adjustable pedal assembly. Drott et al. shows a pedal assembly of interest.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'David Dunn', is positioned above the printed name.

David Dunn
Primary Examiner
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